

**REPORT OF THE AUDIT OF THE
MONROE COUNTY
CLERK**

**For The Year Ended
December 31, 2008**



**CRIT LUALLEN
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EXECUTIVE SUMMARY

AUDIT EXAMINATION OF THE MONROE COUNTY CLERK

**For The Year Ended
December 31, 2008**

The Auditor of Public Accounts has completed the Monroe County Clerk's audit for the year ended December 31, 2008. Based upon the audit work performed, the financial statement presents fairly in all material respects, the revenues, expenditures, and excess fees in conformity with the regulatory basis of accounting.

Financial Condition:

Excess fees increased by \$35,729 from the prior year, resulting in excess fees of \$68,959 as of December 31, 2008. Revenues decreased by \$25,693 from the prior year and expenditures decreased by \$61,422.

Report Comment:

- The County Clerk Should Comply With Court Order Upon Appellate Court Ruling

Deposits:

The County Clerk's deposits as of April 8, 2008, were exposed to custodial credit risk as follows:

- Uncollateralized and Uninsured \$26,252

The County Clerk's deposits were covered by FDIC insurance and a properly executed collateral security agreement, but the bank did not adequately collateralize the County Clerk's deposits in accordance with the security agreement.

CONTENTS

PAGE

INDEPENDENT AUDITOR'S REPORT	1
STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS	3
NOTES TO FINANCIAL STATEMENT	6
REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF THE FINANCIAL STATEMENT PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS	11
COMMENT AND RECOMMENDATION	15



CRIT LUALLEN
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Wilbur Graves, Monroe County Judge/Executive
The Honorable Teresa Sheffield, Monroe County Clerk
Members of the Monroe County Fiscal Court

Independent Auditor's Report

We have audited the accompanying statement of revenues, expenditures, and excess fees - regulatory basis of the County Clerk of Monroe County, Kentucky, for the year ended December 31, 2008. This financial statement is the responsibility of the County Clerk. Our responsibility is to express an opinion on this financial statement based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America, the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States, and the Audit Guide for County Fee Officials issued by the Auditor of Public Accounts, Commonwealth of Kentucky. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in Note 1, the County Clerk's office prepares the financial statement on a regulatory basis of accounting that demonstrates compliance with the laws of Kentucky, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America.

In our opinion, the financial statement referred to above presents fairly, in all material respects, the revenues, expenditures, and excess fees of the County Clerk for the year ended December 31, 2008, in conformity with the regulatory basis of accounting described in Note 1.

In accordance with Government Auditing Standards, we have also issued our report dated October 19, 2009 on our consideration of the Monroe County Clerk's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with Government Auditing Standards and should be considered in assessing the results of our audit.



The Honorable Wilbur Graves, Monroe County Judge/Executive
The Honorable Teresa Sheffield, Monroe County Clerk
Members of the Monroe County Fiscal Court

Based on the results of our audit, we have presented the accompanying comment and recommendation, included herein, which discusses the following report comment:

- The County Clerk Should Comply With Court Order Upon Appellate Court Ruling

This report is intended solely for the information and use of the County Clerk and Fiscal Court of Monroe County, Kentucky, and the Commonwealth of Kentucky and is not intended to be and should not be used by anyone other than these specified parties.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Crit Luallen", written in a cursive style.

Crit Luallen
Auditor of Public Accounts

October 19, 2009

MONROE COUNTY
TERESA SHEFFIELD, COUNTY CLERK
STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS

For The Year Ended December 31, 2008

Revenues

State Grants	\$ 60,610
State Fees For Services	6,042
Fiscal Court	4,258

Licenses and Taxes:

Motor Vehicle-

Licenses and Transfers	\$ 392,859
Usage Tax	496,321
Tangible Personal Property Tax	780,290
Child Victim Fund	25
Notary Fees	6,464
Lien Release Fees	5,982

Other-

Fish and Game Licenses	5,553	
Marriage Licenses	3,159	
Occupational Licenses	100	
Going Out of Business	50	
Deed Transfer Tax	21,797	
Delinquent Tax	41,307	
Affordable Housing Trust	12,294	1,766,201

Fees Collected for Services:

Recordings-

Deeds, Easements, and Contracts	7,628
Real Estate Mortgages	13,105
Chattel Mortgages and Financing Statements	26,753
Powers of Attorney	1,279
Bail Bonds	1,276
Fixture Filings	115
Leases	245
Liens & Lis Pendens	2,183
Releases	4,248
Wills & Estate Settlement	410
All Other Recordings	2,456

The accompanying notes are an integral part of this financial statement.

MONROE COUNTY
 TERESA SHEFFIELD, COUNTY CLERK
 STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS
 For The Year Ended December 31, 2008
 (Continued)

Revenues (Continued)

Fees Collected for Services: (Continued)

Charges for Other Services-

Candidate Filing Fees	\$	500	
Copywork		2,682	
Postage		137	
Refunds/Overpayments		<u>2,471</u>	\$ 65,488

Other:

Miscellaneous		110	
NSF Fees		<u>300</u>	410

Interest Earned			<u>2,741</u>
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Total Revenues			1,905,750
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Expenditures

Payments to State:

Motor Vehicle-

Licenses and Transfers	\$	278,514	
Usage Tax		480,122	
Tangible Personal Property Tax		268,552	
Licenses, Taxes, and Fees-			
Fish and Game Licenses		5,410	
Delinquent Tax		10,612	
Legal Process Tax		10,218	
Affordable Housing Trust		<u>12,294</u>	1,065,722

Payments to Fiscal Court:

Tangible Personal Property Tax		54,251	
Delinquent Tax		3,280	
Deed Transfer Tax		20,707	
Occupational Licenses		<u>95</u>	78,333

Payments to Other Districts:

Tangible Personal Property Tax		426,186	
Delinquent Tax		<u>17,398</u>	443,584

The accompanying notes are an integral part of this financial statement.

MONROE COUNTY
 TERESA SHEFFIELD, COUNTY CLERK
 STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS
 For The Year Ended December 31, 2008
 (Continued)

Expenditures (Continued)

Payments to Sheriff	\$	405	
Payments to County Attorney		5,999	
Operating Expenditures:			
Personnel Services-			
Deputies' Salaries	\$	94,494	
Contracted Services-			
Employee Training Program		35	
Tax Bill Preparation		4,438	
Materials and Supplies-			
Office Supplies		10,580	
Other Charges-			
Conventions and Travel		4,843	
Dues		950	
Postage		3,453	
Refunds		2,473	
Miscellaneous		18	121,284
Debt Service:			
Lease Purchase		40,320	
Total Expenditures			\$ 1,755,647
Net Revenues			150,103
Less: Statutory Maximum			74,020
Excess Fees			76,083
Less: Expense Allowance		3,600	
Training Incentive Benefit		3,524	7,124
Excess Fees Due County for 2008			68,959
Payment to Fiscal Court - March 19, 2009			7,401
Balance Due Fiscal Court at Completion of Audit (Note 5)			\$ 61,558

The accompanying notes are an integral part of this financial statement.

MONROE COUNTY
NOTES TO FINANCIAL STATEMENT

December 31, 2008

Note 1. Summary of Significant Accounting Policies

A. Fund Accounting

A fee official uses a fund to report on the results of operations. A fund is a separate accounting entity with a self-balancing set of accounts. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities.

A fee official uses a fund for fees to account for activities for which the government desires periodic determination of the excess of revenues over expenditures to facilitate management control, accountability, and compliance with laws.

B. Basis of Accounting

KRS 64.820 directs the fiscal court to collect any amount, including excess fees, due from the County Clerk as determined by the audit. KRS 64.152 requires the County Clerk to settle excess fees with the fiscal court by March 15 each year.

The financial statement has been prepared on a regulatory basis of accounting, which demonstrates compliance with the laws of Kentucky and is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. Under this regulatory basis of accounting, revenues and expenditures are generally recognized when cash is received or disbursed with the exception of accrual of the following items (not all-inclusive), at December 31 that may be included in the excess fees calculation:

- Interest receivable
- Collection on accounts due from others for 2008 services
- Reimbursements for 2008 activities
- Payments due other governmental entities for December tax and fee collections and payroll
- Payments due vendors for goods or services provided in 2008

The measurement focus of a fee official is upon excess fees. Remittance of excess fees is due to the County Treasurer in the subsequent year.

C. Cash and Investments

At the direction of the fiscal court, KRS 66.480 authorizes the County Clerk's office to invest in the following, including but not limited to, obligations of the United States and of its agencies and instrumentalities, obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States, obligations of any corporation of the United States government, bonds or certificates of indebtedness of this state, and certificates of deposit issued by or other interest-bearing accounts of any bank or savings and loan institution which are insured by the Federal Deposit Insurance Corporation (FDIC) or which are collateralized, to the extent uninsured, by any obligation permitted by KRS 41.240(4).

MONROE COUNTY
 NOTES TO FINANCIAL STATEMENT
 December 31, 2008
 (Continued)

Note 2. Employee Retirement System

The county officials and employees have elected to participate in the County Employees Retirement System (CERS), pursuant to KRS 78.530 administered by the Board of Trustees of the Kentucky Retirement Systems. This is a cost-sharing, multiple-employer, defined benefit pension plan that covers all eligible full-time employees and provides for retirement, disability, and death benefits to plan members.

Benefit contributions and provisions are established by statute. Nonhazardous covered employees are required to contribute 5.0 percent of their salary to the plan. The county's contribution rate for nonhazardous employees was 16.17 percent for the first six months and 13.50 percent for the last six months of the year.

Benefits fully vest on reaching five years of service for nonhazardous employees. Aspects of benefits for nonhazardous employees include retirement after 27 years of service or age 65.

Historical trend information pertaining to CERS' progress in accumulating sufficient assets to pay benefits when due is presented in the Kentucky Retirement Systems' annual financial report which is a matter of public record. This report may be obtained by writing the Kentucky Retirement Systems, 1260 Louisville Road, Frankfort, Kentucky 40601-6124, or by telephone at (502) 564-4646.

Note 3. Deposits

The Monroe County Clerk maintained deposits of public funds with depository institutions insured by the Federal Deposit Insurance Corporation (FDIC) as required by KRS 66.480(1)(d). According to KRS 41.240(4), the depository institution should pledge or provide sufficient collateral which, together with FDIC insurance, equals or exceeds the amount of public funds on deposit at all times. In order to be valid against the FDIC in the event of failure or insolvency of the depository institution, this pledge or provision of collateral should be evidenced by an agreement between the County Clerk and the depository institution, signed by both parties, that is (a) in writing, (b) approved by the board of directors of the depository institution or its loan committee, which approval must be reflected in the minutes of the board or committee, and (c) an official record of the depository institution.

Custodial Credit Risk - Deposits

Custodial credit risk is the risk that in the event of a depository institution failure, the County Clerk's deposits may not be returned. The Monroe County Clerk does not have a deposit policy for custodial credit risk but rather follows the requirements of KRS 41.240(4). As of December 31, 2008, all deposits were covered by FDIC insurance or a properly executed collateral security agreement. However, as of April 8, 2008, public funds were exposed to custodial credit risk because the bank did not adequately collateralize the County Clerk's deposits in accordance with the security agreement.

- Uncollateralized and Uninsured \$26,252

MONROE COUNTY
NOTES TO FINANCIAL STATEMENT
December 31, 2008
(Continued)

Note 4. Lease

The Office of the Monroe County Clerk entered into a lease agreement on January 9, 2005, with Software Management, Inc. for computer software and hardware. The agreement requires a monthly payment of \$3,360 for a five-year term, to be completed on January 8, 2010. As of December 31, 2008, the balance of the lease agreement was \$40,320.

Note 5. Civil Action

On March 6, 2008, the Office of the Monroe County Clerk received a \$60,610 revenue supplement from the Commonwealth of Kentucky Transportation Cabinet, Department of Vehicle Regulation, per KRS 186.040. On March 12, 2008, the County Clerk filed a civil action in Monroe Circuit Court against the Monroe County Judge/Executive and the Monroe County Fiscal Court regarding the use of the funds. The Opinion and Order entered by the Circuit Judge on February 5, 2009, states, "The Court overrules the motion of the Plaintiff for judgment on the pleadings and enters Judgment in favor of the Defendants." As of the audit date, the County Clerk has appealed the Circuit Judge's opinion. On March 9, 2009, the \$60,610 revenue supplement, along with \$948 in interest, totaling \$61,558, was deposited into an escrow account while the case is pending.

REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND
ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF THE FINANCIAL
STATEMENT PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS



CRIT LUALLEN
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Wilbur Graves, Monroe County Judge/Executive
The Honorable Teresa Sheffield, Monroe County Clerk
Members of the Monroe County Fiscal Court

**Report On Internal Control Over Financial Reporting And
On Compliance And Other Matters Based On An Audit Of The Financial
Statement Performed In Accordance With Government Auditing Standards**

We have audited the statement of revenues, expenditures, and excess fees - regulatory basis of the Monroe County Clerk for the year ended December 31, 2008, and have issued our report thereon dated October 19, 2009. The County Clerk's financial statement is prepared in accordance with a basis of accounting other than generally accepted accounting principles. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the Monroe County Clerk's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statement, but not for the purpose of expressing an opinion on the effectiveness of the County Clerk's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Monroe County Clerk's internal control over financial reporting.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with the regulatory basis of accounting such that there is more than a remote likelihood that a misstatement of the entity's financial statement that is more than inconsequential will not be prevented or detected by the entity's internal control.

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statement will not be prevented or detected by the entity's internal control.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above.



Report On Internal Control Over Financial Reporting And
On Compliance And Other Matters Based On An Audit Of The Financial
Statement Performed In Accordance With Government Auditing Standards
(Continued)

Compliance And Other Matters

As part of obtaining reasonable assurance about whether the Monroe County Clerk's financial statement for the year ended December 31, 2008, is free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed an instance of noncompliance or other matters that is required to be reported under Government Auditing Standards and which is described in the accompanying comment and recommendation.

- The County Clerk Should Comply With Court Order Upon Appellate Court Ruling

The Monroe County Clerk's response to the finding identified in our audit is included in the accompanying comment and recommendation. We did not audit the County Clerk's response and, accordingly, we express no opinion on it.

This report is intended solely for the information and use of management, the Monroe County Fiscal Court, and the Department for Local Government and is not intended to be and should not be used by anyone other than these specified parties.

Respectfully submitted,



Crit Luallen
Auditor of Public Accounts

October 19, 2009

COMMENT AND RECOMMENDATION

MONROE COUNTY
TERESA SHEFFIELD, COUNTY CLERK
COMMENT AND RECOMMENDATION

For The Year Ended December 31, 2008

STATE LAWS AND REGULATIONS

The County Clerk Should Comply With Court Order Upon Appellate Court Ruling

On March 6, 2008, the office of the Monroe County Clerk received funds totaling \$60,610 from the Commonwealth of Kentucky Transportation Cabinet, Department of Vehicle Regulation, per KRS 186.040. On March 12, 2008, the County Clerk filed a civil action in Monroe Circuit Court against the Monroe County Judge/Executive and the Monroe County Fiscal Court regarding the use of the funds; the fiscal court would not approve her budget to spend these funds. Due to the fact that the County Clerk's budget was not approved by fiscal court, the County Clerk did not expend the amount in question. Instead, the funds were deposited into an escrow account pending the outcome of the litigation.

Subsequently, The Opinion and Order entered by the Circuit Judge on February 5, 2009, in the civil action stated, "The Court overrules the motion of the Plaintiff for judgment on the pleadings and enters Judgment in favor of the Defendants." As of the audit date, the County Clerk has appealed the Circuit Judge's opinion.

KRS 64.152 (1) "In counties containing a population of less than seventy-five thousand (75,000), the county clerk shall provide to the fiscal court by March 15 of each year a complete statement for the preceding calendar year of all funds received by his office capacity or for official services, and of all expenditures of his office, including his salary, compensation of deputies and assistants, and reasonable expenses. (2) At the time of filing the annual financial statement; the clerk shall pay to the fiscal court any income of his office, including income from investments, which exceeds the sum of his maximum salary as permitted by the Constitution and other reasonable expenses, including compensation of deputies and assistants. The settlement shall be subject to correction by audit." Per the County Clerk's audited financial statement, additional excess fees of \$61,558 are due, which includes the funds received from the Transportation Cabinet per KRS 186.040. However, the County Clerk has not paid these excess fees because of the pending appeal.

We recommend the County Clerk continue to hold the funds in escrow until the appeal process is complete. Once the Appellate Court rules on the appeal and the judicial process is concluded, we recommend the County Clerk comply with the Appellate Court's ruling.

County Clerk's Response: The funds totaling \$60,610 received by the clerk's office on March 6, 2008 was the result of legislation created by the Legislature in 2006 under House Bill 537 to be collected beginning in the year 2007, and distributed proportionately to county clerks in counties with a population less than twenty thousand beginning in 2008 from the Kentucky County Clerk's Revenue Supplement Fund "to provide an unrestricted revenue supplement for operations of the clerk's office and for no other purpose." (KRS 186.040) These funds are to be used by the county clerk for any necessary expense for the effective operation of the office, including improvements to the office, additional equipment, supplies, or deputies' salaries. Then, and only then, after such expenses, the remaining funds shall be paid to the fiscal court as excess fees. (KRS 64.152(1).

MONROE COUNTY
TERESA SHEFFIELD, COUNTY CLERK
COMMENT AND RECOMMENDATION
For The Year Ended December 31, 2008
(Continued)

STATE LAWS AND REGULATIONS: (CONTINUED)

The County Clerk Should Comply With Court Order Upon Appellate Court Ruling (Continued)

County Clerk's Response: (Continued)

These funds were included in the clerk's budget initially submitted to the Fiscal Court in 2008, asking for an increase in deputies' salaries in order to enable the hiring of an additional deputy to be able to serve the people more efficiently, as the clerk's office is the busiest office in the Courthouse! However, the Fiscal Court refused to approve the clerk's budget as submitted, and would not approve the additional funds requested for deputies' salaries. This resulted in the civil complaint being filed, which is now being appealed to the Kentucky Court of Appeals. The \$60,610 was placed in a special escrow account upon advice of counsel, pending the outcome of the appeal.

Because it is the busiest office in the Courthouse, the deputy clerks have a very heavy workload and they deserve to be treated fairly and equitably. It is not fair that they have this heavy workload and not be paid fairly for all they do.

At such time as the appeal process is completed, I will comply with the Appellate Court's ruling.

